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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2013-795*

12 **IAN SEAN SCHWARTZ**
13 **8465 Regents Road, #438**
San Diego, CA 92122

A C C U S A T I O N

14 **Registered Nurse License No. 628875**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about November 5, 2003, the Board of Registered Nursing issued Registered
23 Nurse License Number 628875 to Ian Sean Schwartz (Respondent). The Registered Nurse
24 License expired on July 31, 2011 and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 9. Section 2761 of the Code states:

2 The board may take disciplinary action against a certified or licensed nurse or
3 deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct, which includes, but is not limited to, the
5 following:

6

7 (4) Denial of licensure, revocation, suspension, restriction, or any other
8 disciplinary action against a health care professional license or certificate by another
9 state or territory of the United States, by any other government agency, or by another
10 California health care professional licensing board. A certified copy of the decision
11 or judgment shall be conclusive evidence of that action.

12

13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the record of
15 conviction shall be conclusive evidence thereof.

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17 **REGULATORY PROVISIONS**

18 10. California Code of Regulations, title 16, section 1444, states:

19 A conviction or act shall be considered to be substantially related to the
20 qualifications, functions or duties of a registered nurse if to a substantial degree it
21 evidences the present or potential unfitness of a registered nurse to practice in a
22 manner consistent with the public health, safety, or welfare. Such convictions or
23 acts shall include but not be limited to the following:

24 (a) Assaultive or abusive conduct including, but not limited to, those
25 violations listed in subdivision (d) of Penal Code Section 11160.

26 (b) Failure to comply with any mandatory reporting requirements.

27 (c) Theft, dishonesty, fraud, or deceit.

28 (d) Any conviction or act subject to an order of registration pursuant to
Section 290 of the Penal Code.

11. California Code of Regulations, title 16, section 1445(b), states:

When considering the suspension or revocation of a license on the grounds
that a registered nurse has been convicted of a crime, the board, in evaluating the
rehabilitation of such person and his/her eligibility for a license will consider the
following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

1 (3) The time that has elapsed since commission of the act(s) or offense(s).

2 (4) Whether the licensee has complied with any terms of parole, probation,
3 restitution or any other sanctions lawfully imposed against the licensee.

4 (5) If applicable, evidence of expungement proceedings pursuant to Section
5 1203.4 of the Penal Code.

6 (6) Evidence, if any, of rehabilitation submitted by the licensee.

7 **COST RECOVERY**

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
13 included in a stipulated settlement.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Disciplinary Action by Another Health Care Agency – 16 Georgia Board of Nursing)**

17 13. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on
18 the grounds of unprofessional conduct in that Respondent was disciplined by the Georgia Board
19 of Nursing for failing to disclose a 2008 arrest for child pornography on his Georgia 2010-2012
20 renewal application, which discipline resulted in the voluntary surrender of Respondent's Georgia
21 Nursing License No. 117522 on or about January 18, 2012 in Georgia Board of Nursing Case
22 No. 2012-0141.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct – Disciplinary Action by Another Health Care Agency – 25 Oregon Board of Nursing)**

26 14. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on
27 the grounds of unprofessional conduct in that Respondent was disciplined by the Oregon Board of
28 Nursing for violation of Oregon Revised Statutes section 678.111(1)(a) (conviction of crime) and

1 (l)(h) (revocation or suspension of a license to practice nursing by any state or territory of the
2 United States or any foreign jurisdiction): The circumstances are as follows:

3 15. On or about February 14, 2012, the Oregon State Board of Nursing (Oregon Board)
4 received information that on or about January 18, 2012, Respondent voluntarily surrendered his
5 registered nurse license No. 117522 in State of Georgia, and that the Georgia Board of Nursing
6 accepted Respondent's voluntarily surrender after having been convicted of 10 counts of sexual
7 exploitation of children in *The State v. Ian Sean Schwartz*, in the Superior Court of Georgia,
8 County of Floyd, Case No. 09CR02524.

9 16. On or about May 16, 2012, the Oregon Board accepted Respondent's voluntary
10 surrender of his Oregon Registered Nurse License No. 200140038RN.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(August 18, 2011 Criminal Conviction for Sexual Exploitation of Children in 2008)**

13 17. Respondent is subject to disciplinary action under Code sections 490 and 2761,
14 subdivision (f), of the Code in that he was convicted of a crime substantially related to the
15 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

16 18. On or about August 18, 2011, in a criminal proceeding entitled *The State v. Sean*
17 *Schwartz*, in the Superior Court of Georgia, County of Floyd, in Case No. 09CR02524,
18 Respondent was convicted on his plea of guilty of violating Official Code of Georgia Annotated
19 (O.C.G.A.) section 16-12-100 (sexual exploitation of children), a felony. Pursuant to a plea
20 agreement, nine additional counts of violating Georgia Code O.C.G.A. 16-12-100, felonies, were
21 dismissed.

22 19. As a result of the conviction, the Court sentenced Respondent to serve five years in
23 state prison.

24 20. The circumstances that led to Respondent's conviction are that in 2008, authorities
25 found that Respondent knowingly possessed and controlled material depicting minors engaged in
26 sexually explicit conduct with other minors and with adults.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 628875 issued to Ian Sean Schwartz;
- 2. Ordering Ian Sean Schwartz to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 19, 2013

for 
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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